



February 20, 2012

House Natural Resources, Tourism and Outdoor Recreation Committee
Lansing, Michigan

Re: Cleanup of Leaking Underground Storage Tanks, SB 528-533

Dear Representatives,

The Michigan Environmental Council supports efforts to speed the cleanup of leaking underground storage tank sites across the state. Greater focus and attention needs to be placed on the over 9000 known sites of leaking underground tanks located across Michigan placing drinking water at unnecessary risk. Unfortunately, these bills fall short of steps necessary to protect public health.

Despite leaking tank sites sitting for decades with no action, the bills fail to set specific timeframes and expectation for responsible parties to diligently pursue cleanups. The bills also fail to ensure long-term funding for the program to provide for staffing levels necessary to work with tank owners and provide the oversight required to protect public health.

The substitute bills remain flawed. Some of the major problems include:

- The bills relinquishes the state's responsibility to protect public health to the parties responsible for the contamination and who have a vested interest in minimize expenditures and therefore putting the public at risk, by:
 - Allowing the party responsible for the cleanup to set their own cleanup standards without prior approval of the department. (SB 528 (S-2), p.5)
 - Failing to provide guidance when a site proposes an "unacceptable risk" to the public. (SB 528(S-2), p.13)
 - Allowing the party responsible for the cleanup to decide when exposure to contaminants left in the ground or within groundwater has been sufficiently limited. (SB 528(S-2), p.16)
 - Allowing responsibly parties to relocate contaminated soil to clean parcels of property with prior approval by or notice to the department. (SB 528 (S-2), p.5)
- Excludes the public from any meaningful participation in the decisions regarding the cleanup of contaminated sites in their community, though:
 - Establishing standards and processes that are only available in copyrighted documents that are not available to the public free of charge. (SB 531 (S-2), p.5)

- Failing to require any public notice or review of remediation plans (even in those instances where contaminated aquifers may have migrated under their own property). (SB 528 (S-2))
- Limits the ability of the state to prevent “imminent risk to public health” by allowing the party responsibility for the contamination to appeal an administrative order to abate the risk before taking steps to protect public health. (SB 532 (S-2), p.4)
- Without justification, limits the time period for state review of a proposed closure plan to ensure public health is protected (even though that in many cases the plan will allow leaving hazardous chemicals in place). (SB 532 (S-2), pgs. 19-20)
- Includes a liability standard that continues to shift responsibility to fund cleanup to the general public. A tank owner or operator has a duty to ensure hazardous substances do not enter Michigan’s environment. Under this law, owners are allowed to avoid liability even if the department establishes that a leak occurred during the period of their ownership. (SB 528 (S-2), p.24 and SB 531 (S-2), p.7)
- Significantly increases the possibility cleanup costs could be shifted to the public by eliminating the requirement that financial assurance be set aside to cover the ongoing site monitoring requirements when hazardous substances are allowed to remain in the environment. (SB 528 (S-2), p.13)

We remain willing to work with stakeholders to improve the bills, but at this time request Representatives oppose this package that places public health in jeopardy and exposes Michigan taxpayers to additional liability.

Sincerely,



James Clift, Policy Director